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OFFICE OF THE ATTORNEY GENERAL  
LEMON LAW ARBITRATION PROGRAM

110 Southeast 6th Street, 10th Floor  
Fort Lauderdale, FL 33301

Case Number: 2009-0034/WPB

In Re: Board Meeting

SHERIF RAFIK KODSY,

Plaintiff.

vs

HUMMER,

Defendant.

\_\_\_\_\_/ .  
Thursday, March 5th, 2009

Commencing at: 1:30 p.m.

Concluding at: 4:00 p.m.

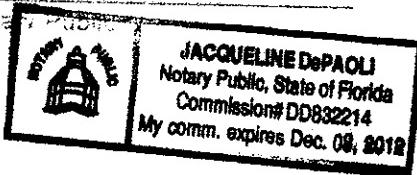
BOARD MEETING

Taken at City of Delray Beach, 100 Northwest 1st  
Street, Delray Beach, FL. 33444.

ERRATA SHEET

PAGE	LINE	CHANGE FROM:	CHANGE TO:
92	23	11,138	11,128

BBP June 2009



Shirley  
Johnson

1

A P P E A R A N C E S

2

3 BOARD MEMBERS:

4 PAUL TUCK, Chairman

5 HAGERENESH SIMMONS, Board Attorney

6 LEONARD WOLFER

7 BERNARD FERNANDEZ

8

9 GENERAL MOTORS REPRESENTATIVES:

10 TOM THORNTON  
5784 Northwest 127th Terrace  
11 Coral Springs, FL. 33076

12 JOE BARDILL  
470 Southeast 8th Avenue  
13 Pompano Beach, FL. 33060

14 MARIO LOPEZ

15

16 Also Present:

17 SHERIF RAFIK KODSY, Plaintiff  
15968 Laurel Oak Circle  
18 Delray Beach, FL. 33484

19 HILLARY HOBBS, Progressive Insurance Agent  
4063 Lake Tahoe Circle  
20 West Palm Beach, FL. 33409

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\* \* \* \* \*

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3 (Thereupon, the following proceedings  
4 were had.)

5 MR. TUCK: This is case number  
6 2009-034/WPB. The matter of Kodsy against  
7 Hummer.

8 Is that the way you pronounce your  
9 name, Kodsy?

10 MR. KODSY: Kodsy.

11 MR. TUCK: It's being held on Thursday,  
12 March 5th, 2009 in Delray Beach. My name is  
13 Paul Tuck. I will be the chair. With me  
14 are Bernard Fernandez, Leonard Wolfer  
15 (phonetic) for the Board. Hager Simmons  
16 would be the Board attorney.

17 As you can see the hearing is being  
18 tape-recorded, actually it's digitally  
19 recorded now. We don't use tape recorders  
20 anymore. That recording will be the  
21 official transcript of the hearing if one is  
22 needed.

23 What we're going to start out doing is  
24 having everybody, starting with the people  
25 from the consumer side, introduce yourselves

1 giving your name and your address. Each  
2 time you speak starting from here on out,  
3 we're going to ask you to identify yourself  
4 because whoever is transcribing the hearing  
5 can't tell all the time who is speaking.

6 So, would you give us your name and  
7 your address?

8 MS. HOBBS: Hillary Hobbs. My address  
9 is 4063 Lake Tahoe Circle, West Palm Beach.  
10 33409.

11 MS. SIMMONS: Would you spell your last  
12 name?

13 MS. HOBBS: H-O-B-B-S.

14 MS. SIMMONS: And your first name is?

15 MS. HOBBS: Hillary with two L's.  
16 H-I-L-L-A-R-Y.

17 MR. TUCK: Next?

18 MR. KODSY: Sherif Kodsy. Do you want  
19 my address?

20 MR. TUCK: Yes, please.

21 MR. KODSY: 15968 Laurel Oak Circle,  
22 Delray Beach, Florida. 33484.

23 MR. TUCK: Next?

24 MR. THORNTON: Tom Thornton.

25 T-H-O-R-N-T-O-N. Address 5784 Northwest

1           127th Terrace, Coral Springs, Florida.

2           33076.

3           MS. SIMMONS: Your title, Mr. Thornton?

4           MR. THORNTON: District Service Manager  
5           for General Motors.

6           MR. BARDILL: Joe Bardill.

7           B-A-R-D-I-L-L. 470 Southeast 8th Avenue,  
8           Pompano Beach, Florida.

9           MS. SIMMONS: Your title, Mr. Bardill?

10          MR. BARDILL: Service manager.

11          MS. SIMMONS: At where?

12          MR. BARDILL: Coral Cadillac.

13          MR. TUCK: Okay.

14          MR. LOPEZ: Mario Lopez, parts manager  
15          for General Motors Corporation.

16          MR. TUCK: The way these hearings are  
17          conducted is informally. By that, I mean we  
18          still have standard rules of courtesy and  
19          not subject to the same rules of evidence  
20          like you see in a courtroom. What we're  
21          going to be doing is first I will be  
22          swearing in everybody who intends to  
23          testify, you will be testifying under oath.  
24          Then we're going to do what we call marked  
25          documents. It simply means that we're going

1 to compare the documents that all the  
2 parties have to make sure everybody is  
3 working from the same set of documents.

4 After that, we're going to ask the  
5 manufacturer which of any of the allegations  
6 in the request for arbitration they can  
7 stipulate or agree to. What they will agree  
8 to or stipulate to doesn't have to be  
9 further proven by testimony or further  
10 documentary evidence. I'm going to have  
11 testimony from the consumer and the  
12 consumer's witnesses followed by questions  
13 from the manufacturer's side.

14 Then the manufacturer will present any  
15 witnesses it chooses to present followed by  
16 questions from the consumer. You can't  
17 interrupt each other. So if you need a  
18 pencil and paper feel free to take down any  
19 notes while the other party is testifying,  
20 so you can remind yourself what questions  
21 you may have wanted to ask.

22 After that, we will decide whether or  
23 not we need to test drive or inspect the  
24 vehicle. Is the vehicle here today?

25 MR. LOPEZ: Yes.

1                   MR. TUCK: If we do test drive the  
2                   vehicle, we'll have more instructions for  
3                   you at that time.

4                   Then we're going to have closing  
5                   statements followed by our deliberations.  
6                   You're free to stay in the room while we  
7                   deliberate, but not to participate unless we  
8                   have a particular question for somebody.  
9                   Depending on the results of our  
10                  deliberations, we either will or will not  
11                  get into a remedy phase.

12                  Any questions? All right. Would  
13                  everybody who is going to testify, please  
14                  raise their right hands?

15                  · (Thereupon, the witnesses were duly  
16                  sworn to testify under oath.)

17                  MR. TUCK: You can put your hands down.  
18                  Thank you.

19                  As a preliminary matter, would the  
20                  consumer turn to the request for  
21                  arbitration. That's the form that looks  
22                  like this that you signed. If you go to the  
23                  last page, page six, there should be a  
24                  signature there.

25                  Is that your signature?

1 MR. KODSY: Yes.

2 MR. TUCK: And you placed it there?

3 MR. KODSY: Yes.

4 MR. TUCK: Thank you. Turning now to  
5 the various documents that have been  
6 presented by the parties.

7 MS. SIMMONS: Mr. Tuck, before we go  
8 through the documents and enter them as an  
9 exhibit, I would let the Board know there  
10 were late submissions of documents from,  
11 what I see, mainly from the consumer side.  
12 From the manufacturer side, there is a late  
13 submission of prehearing information sheet  
14 and a BBB letter. These things the Board  
15 needs to decide of admitting before we start  
16 labeling as exhibits.

17 MR. TUCK: Okay.

18 MS. SIMMONS: I should let the Board  
19 know of the procedural history of getting up  
20 to that. The manufacturer's prehearing  
21 information sheet could not have been  
22 submitted any other time earlier than when  
23 it was done because an inspection did not  
24 occur until this week, the 2nd. That was  
25 the reason for the delay and there has been

1           a motion that's been filed in here by the  
2         manufacturer asking the Board's assistance  
3         in scheduling this and part of the rationale  
4         in allowing this inspection to have was that  
5         even if it was untimely, that inspection  
6         report will be considered admitted to  
7         facilitate the hearing happened in the  
8         40-day requirements.

9           MR. TUCK: I understand.

10          MS. SIMMONS: Just to let you know  
11         what's been submitted, a late submission  
12         from the consumer side is a consumer  
13         prehearing information sheet, amended  
14         prehearing information sheet. From the  
15         exhibit side of the consumer, there is a  
16         certificate of service, medical report, and  
17         GM checklist.

18          From the manufacturer's side, as far as  
19         pleadings, there is a late submission of  
20         manufacturer prehearing information sheet  
21         which I talked about. From the exhibit  
22         side, there is a BBB letter.

23          MR. TUCK: Let's briefly hear from the  
24         parties first. Both sides have submitted  
25         untimely documents. It doesn't mean they're

1 wrong. It just means that the other side is  
2 supposed to have at least five or seven days  
3 beforehand to review these things. Since  
4 you both did it, would you both agree to  
5 allow the evidence to be considered by the  
6 Board?

7 ~~X~~ MR. LOPEZ: I don't have a problem as  
8 long as the Board decides. I'm trying to be  
9 open as I have always been with the Boards.  
10 Whatever you decide will be okay, but as Ms.  
11 Simmons states we had some issues with the  
12 inspection. We couldn't agree on a date and  
13 then the consumer refused to go to their  
14 inspection. That's why we requested it. ~~V~~

15 MR. TUCK: Have you seen the documents  
16 that the consumer submitted?

17 MR. LOPEZ: I'm not sure because --

18 MR. TUCK: Can we show them to them and  
19 see if there is anything that might be  
20 unduly prejudicial.

21 MS. SIMMONS: Sure. Let me see, which  
22 is the consumer's amended prehearing  
23 information sheet.

24 Mr. Kodsy, I'm going to be showing to  
25 the manufacturer what you faxed over to us.

1           The consumer prehearing information sheet  
2        was faxed on the 2nd. That's one from the  
3        pleading side. Here, it has the witness  
4        list on the bottom.

5           MR. TUCK: Has the consumer been served  
6        with the documents that the manufacturer is  
7        looking to submit?

8           MS. SIMMONS: They were instructed to  
9        both fax to each other whenever they filed  
10      documents to the Board, so I'm assuming --

11          MR. TUCK: Did you receive those  
12      documents?

13          MR. KODSY: I'm not sure what documents  
14      we're talking about.

15          MS. SIMMONS: From the manufacturer's  
16      side, what they submitted was the prehearing  
17      inspection report. Did you get a copy of  
18      that?

19          MR. KODSY: From Schumacher? On a  
20      Schumacher, letterhead, yes.

21          MS. SIMMONS: I don't know if it's a  
22      letterhead. It's dated March 2nd. This  
23      document.

24          MR. TUCK: Have you seen that?

25          MR.. KODSY: Yes.

1 MS. SIMMONS: Then the BBB report was  
2 another document that was submitted by the  
3 manufacturer. I will show that to Mr. Kodusy  
4 to see if he has seen it, I assume it was  
5 faxed over. Actually, there is no BBB. I  
6 misspoke.

7 MR. LOPEZ: The only one that was late  
8 submission was the prehearing inspection --

9 MS.. SIMMONS: Prehearing inspection  
10 report.

11 MR. TUCK: Do you have any objection to  
12 us taking the documentation that he just  
13 submitted into consideration?

14 MR. KODSY: Not at all.

15 MR. TUCK: Do you have any objection to  
16 taking those documents into consideration?

17 MR. LOPEZ: Can I have a copy of that?

18 MS. SIMMONS: I thought you said it was  
19 already faxed to you, the March 2nd  
20 prehearing information sheet?

21 MR. LOPEZ: The last one? This is the  
22 last one that I got, so I'm not sure if  
23 that's the one that --

24 MS. SIMMONS: I will show it to you.  
25 This is one, the amended prehearing

1 information sheet and then consumer's  
2 objection -- it's a written objection, it's  
3 a two-page document, and consumer's  
4 statement.

5 MR. LOPEZ: This one I got.

6 MS. SIMMONS: You've already gotten the  
7 amended prehearing report.

8 MR. KODSY: We faxed some more  
9 documents yesterday, consumer statement.

10 MS. SIMMONS: Yes, that's what I'm  
11 showing him, the consumer statement and the  
12 consumer written objection.

13 MR. TUCK: There is no objection?

14 MR. LOPEZ: I don't have any objection  
15 to that.

16 MR. TUCK: With the consent of both  
17 parties, does the Board have any objection  
18 to seeing the documents that have been  
19 submitted untimely?

20 Mr. Wolfer?

21 MR. WOLFER: No.

22 MR. TUCK: No objection, Mr. Fernandez?

23 MR. FERNANDEZ: No objection to both  
24 sides' documents.

25 MR. TUCK: Then we're unanimous, we

1 will accept them.

2 MS. SIMMONS: In that case, we have  
3 copies of those to the Board. Here's the  
4 final amended list of exhibits.

5 MR. TUCK: Okay. So now we're going to  
6 try to mark documents.

7 MS. SIMMONS: Yes.

8 MR. TUCK: The entry of further  
9 documents is officially closed.

10 From the consumer, we have his  
11 pleadings, the consumer's request for  
12 arbitration, consumer's prehearing  
13 information sheet, consumer's amended  
14 prehearing information sheet, consumer's  
15 objections, and the consumer's statement.

16 As exhibits from the consumer, we have  
17 repair orders which will be marked as C1;  
18 defect notification, C2; consumer's letter  
19 to dealership and return receipt, C3; Better  
20 Business Bureau letter, C4; retail  
21 installment contract, C5; motor vehicle  
22 title reassignment supplement registration,  
23 certificate of origin, C6; business card,  
24 C7; invoice, C8; insurance information, C9;  
25 online vehicle search information, C10; car

1 rental receipts, 11; consumer's appeal to  
2 the response of intent to offer settlement,  
3 12; e-mail correspondence, C13; consumer's  
4 appeal, C14; odometer disclosure statement,  
5 C15; used car buyer's order, C16; Better  
6 Business Bureau letter, C --

7 MS. SIMMONS: There's two different  
8 letters from the Better Business Bureau.

9 MR. TUCK: 17, this will be the second  
10 BBB letter. Repair invoice, 18; technical  
11 service bulletins listing, 19; insurance  
12 claim, 20; a second business card, 21;  
13 certificate of service, 22; a medical  
14 report, 23; GM checklist, 24; additional  
15 e-mail correspondence, 25; postage, 26; a  
16 third business card, 27; an e-mail, 28.

17 From the manufacturer, we have his  
18 pleadings and manufacturer's answer  
19 postmarked 2-4-09, manufacturer's prehearing  
20 information sheet, and manufacturer's  
21 amended prehearing information sheet.

22 As exhibits from the manufacturer, we  
23 have prehearing inspection letter which will  
24 be marked M1. General Motors' request for  
25 assistant from the Attorney General's

1           Office, M2; prehearing inspection  
2           confirmation e-mails; M2; Better Business  
3           Bureau letter, M4; prehearing inspection  
4           report, M5.

5           Now we're going to turn to the  
6 consumer's request for arbitration. We're  
7 going to ask the manufacturer's  
8 representative, can you agree to items one,  
9 two, and three?

10          MR. LOPEZ: Yes, sir.

11          MR. TUCK: Item four?

12          MR. LOPEZ: Yes, sir.

13          MR. TUCK: Number five, the consumer is  
14 looking for a replacement vehicle?

15          MR. KODSY: At this point --

16          MR. TUCK: Or a refund?

17          MR. KODSY: Whatever the Board decides  
18 is the best way to go, probably a refund.

19          MR. TUCK: That will be your choice,  
20 but we'll get to that when we get to the end  
21 of our deliberations and see what decision  
22 we render. For now, we'll just leave it  
23 open.

24          MS. SIMMONS: Okay.

25          MR. TUCK: Can the manufacturer agree

1 to number six?

2 MR. LOPEZ: Yes, sir.

3 MR. TUCK: Seven, is it less than  
4 10,000 pounds?

5 MR. LOPEZ: 8600 pounds.

6 MR. TUCK: Eight?

7 MR. LOPEZ: It's GM manufactured.

8 MR. TUCK: Nine?

9 MR. LOPEZ: It's a Hummer H2 2008.

10 MR. TUCK: Number ten, if that's the  
11 correct vehicle identification number, would  
12 you please read it into the record?

13 MR. LOPEZ: Yes, sir.

14 5GRGN23878H107653.

15 MR. TUCK: Thank you. 12, two parts.

16 MR. LOPEZ: Number 12, the mileage is  
17 correct. It's 238 miles. The delivery date  
18 when it was sold to him was 8-19, that's  
19 correct, but the warranty started on June  
20 11th, 2008 because this was a special event  
21 vehicle when it was sold to him.

22 MR. TUCK: It was a what?

23 MR. LOPEZ: Special event, a vehicle  
24 that is used for a show and then the dealer  
25 buys. It's a new vehicle. It's not a used

1 vehicle.

2 MR. TUCK: It's a new vehicle?

3 MR. LOPEZ: It's a new vehicle, yes,  
4 it's a new vehicle.

5 MS. SIMMONS: Is it a demo?

6 MR. LOPEZ: Similar to a demo. It's in  
7 the same category, it's just that they call  
8 it a special event. It's been in a show or  
9 whatever. It hasn't been titled in any  
10 state.

11 MR. TUCK: Okay. Thank you.

12 MR. LOPEZ: You're welcome, sir.

13 MR. TUCK: Are we going to call it new  
14 or a demonstrator?

15 MS. SIMMONS: I'm not sure.

16 MR. TUCK: I thought the testimony said  
17 that it was sold as a new vehicle. It was  
18 not used to show to other potential buyers.

19 MR. LOPEZ: Right.

20 MR. TUCK: It was used in a single  
21 event.

22 MR. LOPEZ: It was in a single event,  
23 exactly.

24 MS. SIMMONS: So it's not like a demo

1 MR. LOPEZ: GM, like they get a new car  
2 and they put it in a show for a single event  
3 and then the dealer says I want that car so  
4 they buy it from you and they sell it.

5 MS. SIMMONS: So it would be a new  
6 vehicle?

7 MR. LOPEZ: It's a new vehicle.

8 MR. FERNANDEZ: This is Bernard  
9 Fernandez.

10 Good afternoon, Mr. Lopez. You are  
11 here and unequivocally you're saying that  
12 the vehicle is new?

13 MR. LOPEZ: Exactly.

14 MR. FERNANDEZ: Okay. Fine with me.

15 MR. TUCK: 15, consumer still possesses  
16 the vehicle that's here today?

17 MR. KODSY: Yes.

18 MR. TUCK: 16 becomes irrelevant.

19 MS. SIMMONS: What is 16?

20 MR. TUCK: 16, if purchased used.

21 MS. SIMMONS: Okay.

22 MR. TUCK: Under 17, can the  
23 manufacturer stipulate or agree that on the  
24 dates listed there the vehicle was brought  
25 to the dealership for the problems listed in

1       lines one through six?

2                    MR. LOPEZ: We can stipulate to some --  
3                   most of the dates there --

4                    MR. TUCK: Then you take exceptions.

5                    MR. LOPEZ: We'll have to take an  
6                   exception to a few of them.

7                    MR. TUCK: Why don't you tell us which  
8                   ones you take exceptions?

9                    MR. LOPEZ: Okay. We'll start with  
10                  number one?

11                  MR. TUCK: Yes.

12                  MR. LOPEZ: That one, the first one,  
13                  10-20-08.

14                  MR. TUCK: Yes?

15                  MR. LOPEZ: That didn't go in for that.

16                  MR. TUCK: It was not in for that?

17                  MR. LOPEZ: It was not in for that.

18                  MR. TUCK: So we'll have to take  
19                  testimony.

20                  MR. LOPEZ: Yes. The other one, the  
21                  next day, I think it is 11-5, it's not  
22                  11-12.

23                  MR. WOLFER: I'm sorry, it was on 11-5?

24                  MR. LOPEZ: I think it's 11-5.

25                  MR. TUCK: Yes. We'll look at the

1 repair order.

2 MR.. LOPEZ: I'm trying to sort the  
3 complaints by the repair orders.

4 MR. TUCK: What he is referring to is  
5 on the repair orders is an open date and a  
6 ready date. The dates that we referred to  
7 -- there is no reason why you should know  
8 this if you haven't done it before. We  
9 always refer to the repair order opening  
10 date, so I presume you have no objection to  
11 --

12 MR. KODSY: Correct.

13 MR. LOPEZ: The other one is --

14 MS. SIMMONS: When you say other one,  
15 is it number three?

16 MR. LOPEZ: Number three, 12-1-08 is  
17 correct.

18 MS. SIMMONS: You don't stipulate to  
19 10-20 and 11-5?

20 MR. LOPEZ: We would have to take a  
21 look at the repair orders to see.

22 MS. SIMMONS: Number three?

23 MR. TUCK: Line three. Wait a second.  
24 What line are you on now? As far as I  
25 understand starting with line one, you had a

1 question about the first date under date  
2 one.

3 MR. LOPEZ: Under date two. That same  
4 line, item number one, that's where I am.  
5 I'm looking at date one, date two, and date  
6 three.

7 MR. TUCK: All right. So you're taking  
8 exception to all three dates?

9 MR. LOPEZ: Not the last one, we agree  
10 that's --

11 MR. TUCK: So you're taking exception  
12 to 10-20-08 and 11-12-08?

13 MR. LOPEZ: Yes.

14 MR. TUCK: Okay.

15 MR. WOLFER: Are you taking exception  
16 to 11-12 because it should be 11-5?

17 MR. LOPEZ: I think it is, yes.

18 MR. WOLFER: Okay.

19 MR. FERNANDEZ: Bernard Fernandez. I  
20 believe the manufacturer had no objection to  
21 changing the November 12th date to November  
22 5th?

23 MR. TUCK: That's correct.

24 MR. FERNANDEZ: Is that correct?

25 MR. TUCK: Yes.

1 MR. FERNANDEZ: Okay.

2 MR. TUCK: So now let's go down to line  
3 three. Is that the same situation with  
4 11-12.

5 MS. SIMMONS: Line two.

6 MR. TUCK: I thought we just did line  
7 two.

8 MR. LOPEZ: It was line one.

9 MS. SIMMONS: Complaints, the rough  
10 vibration during driving, what dates do you

11 --

12 MR. LOPEZ: That's number two.

13 MS. SIMMONS: Yes. What dates do you  
14 stipulate to?

15 MR. LOPEZ: I couldn't find any rough  
16 vibration claim --

17 MS. SIMMONS: So you don't stipulate to  
18 any one of those dates?

19 MR. LOPEZ: No.

20 MS. SIMMONS: The third one which  
21 states the hopping of vehicle at low speeds.  
22 Is there any date that you stipulate to?

23 MR. LOPEZ: 12-1-08, date number three.

24 MR. TUCK: Line four?

25 MR. LOPEZ: Vehicle bounces. I cannot

1 stipulate to the first two. The third one,  
2 we would have to look at it because I'm not  
3 sure because he complains about hopping.

4 MR. TUCK: So you're not going to  
5 stipulate to any of these, we'll take  
6 testimony.

7 MR. LOPEZ: Yes, we would have to look  
8 at them.

9 MR. TUCK: Line five?

10 MR. LOPEZ: Line five would be the  
11 12-22. That one we can stipulate to.

12 MR. TUCK: That's the only one?

13 MR. LOPEZ: Yes.

14 MR. TUCK: Finally, line six?

15 MR. LOPEZ: Brakes squealing; I can  
16 stipulate to 12-22, and I believe the  
17 consumer agrees on 11-5 instead of 11-12.

18 MR. TUCK: Okay.

19 MR. LOPEZ: We can stipulate to that.

20 MR. WOLFER: But not the 10-20?

21 MR. LOPEZ: Not the 10-20, no.

22 MR. TUCK: Moving to line 18.

23 MR. LOPEZ: Yes, sir.

24 MR. TUCK: On that date, 12-18?

25 MR. LOPEZ: Yes.

1 MR. TUCK: Line 19?

2 MR. LOPEZ: Final repair of 12-22, yes.

3 MR. TUCK: Under line 20, the days out,  
4 27 days?

5 MR. LOPEZ: I think I just have one day  
6 difference, I think I count 26.

7 MR. TUCK: 26. We'll have to check  
8 that later.

9 MR. LOPEZ: He marked yes on 21, but  
10 this is not a conversion.

11 MR. TUCK: This is not asking that.

12 What it appears to be saying is did the  
13 manufacturer or the conversion company or  
14 authorized service agent had the opportunity  
15 to inspect or repair the vehicle. So it's  
16 the same yes as before.

17 MS. SIMMONS: Do you stipulate that you  
18 had an opportunity to inspect it?

19 MR. LOPEZ: Yes.

20 MR. TUCK: Under 22, is there any  
21 allegation that the conditions complained  
22 about are the result of accident, use,  
23 neglect or modification or alteration?

24 MR. LOPEZ: Not that I know.

25 MR. TUCK: Under 23, there is a Better

1           Business certified program connected with  
2           this vehicle?

3           MR. LOPEZ: Yes, there was.

4           MR. TUCK: It's my understanding from  
5           the file that the Better Business Bureau  
6           declined it because they said there was some  
7           report of accident or fire from the  
8           consumer?

9           MS. SIMMONS: There's a second BBB  
10          letter, I know you didn't have an  
11          opportunity to see it in the file because  
12          this is late submission. Page 80 and 81.

13          On the consumer side, page 80.

14          MR. FERNANDEZ: Madam Counsel, we just  
15          wanted to address your attention to our page  
16          22 on the supplemental reports that were  
17          received timely.

18          MS. SIMMONS: Yes.

19          MR. FERNANDEZ: The very last page that  
20          I seem to be reading here is a letter from  
21          the BBB received February 27th.

22          MS. SIMMONS: Page 22?

23          MR. FERNANDEZ: On our amended -- the  
24          final packet that we first received on the  
25          very last page.

1                   MR. TUCK: This letter is dated January  
2                   9th, 2009.

3                   MS. SIMMONS: Yes.

4                   MR. TUCK: It's from the Better  
5                   Business Bureau?

6                   MS. SIMMONS: Yes.

7                   MR. TUCK: At the end of the first  
8                   paragraph, it says, "We have determined that  
9                   your claim is ineligible for arbitration  
10                  because you have alleged that the defect was  
11                  caused by an accident --

12                  MR. FERNANDEZ: Has caused an accident.

13                  MR. TUCK: -- has caused an accident or  
14                  fire that resulted in property damage or  
15                  bodily injury."

16                  MS. SIMMONS: Yes. It's also on page  
17                  36.

18                  MR. TUCK: We already had that.

19                  MS. SIMMONS: We have that. Thank you.  
20                  I think that needs to be clarified through  
21                  testimony what happened as to the BBB.

22                  MR. FERNANDEZ: I agree.

23                  MR. TUCK: Yes.

24                  MS. SIMMONS: On the consumer side, I  
25                  just want to make sure you have it. On the

1       packet that we gave you, page 36 has the  
2       letter that Mr. Fernandez just pointed out  
3       from the BBB. Page 80, you should have a  
4       second letter from the BBB.

5            MR. TUCK: This is the same letter that  
6       we just read from, you have two copies of  
7       it?

8            MS. SIMMONS: No, it should be a  
9       different one.

10          MR. TUCK: In my file it says January  
11       9th.

12          MR. WOLFER: That's 36. We've got to  
13       go to 80.

14          MR. TUCK: This is the same letter that  
15       we just received another copy of. I just  
16       want to clarify that we were just given  
17       something as an addition which appears to be  
18       the same letter.

19          MS. SIMMONS: Yes.

20          MR. TUCK: In place it's circle number  
21       22 and another page it's circle number 36.

22          MS. SIMMONS: They both filed it, both  
23       parties. I just want to make sure, Mr.  
24       Tuck, you do have this letter. Do you have  
25       that?

1 MR. TUCK: Now we're going to circle  
2 number eight. Yes, I have it..

3 MS. SIMMONS: I just want to make sure  
4 you have that.

5 MR. TUCK: Now we're going to start the  
6 consumer's testimony. Who's going to speak  
7 for the consumer?

8 MR. KODSY: I will.

9 MR. TUCK: What we're going to ask you  
10 to do is starting from when complaints first  
11 arose. I know we have a lot of different  
12 issues here.

13 MS. SIMMONS: I should let the Board  
14 know that the witness who is sitting here,  
15 Ms. Hobbs, she is here under subpoena. I  
16 don't know if you want to take her out of  
17 order or just go ahead.

18 MR. TUCK: Are you under a time  
19 constraint?

20 MS. HOBBS: Well, I left work to come  
21 here so.

22 MR. TUCK: Do you need to get back?

23 MS. HOBBS: As soon as I can, yes.

24 MR. TUCK: All right.

25 With everybody's consent then, why